quent trustee, appointed by the court under statutory authority, sought to exercise the power of using part of the principal. *Held*, that he cannot do so. *Whitaker* v. *McDowell*, 72 Atl. 938 (Conn.). See NOTES, p. 59.

WAGERING CONTRACTS — RECOVERY OF MONEY LENT FOR GAMBLING. — The plaintiff lent money to the defendant's testator knowing that it might be used in gambling. The money was lent and so used in a jurisdiction where gambling was not illegal. *Held*, that the plaintiff can recover. *Saxby* v. *Fulton*, 25 T. L. R. 446 (Eng., Ct. App., Mch. 25, 1909).

This decision affirms that of the King's Bench Division discussed in 22 HARV. L. REV. 65.

WILLS — SPECIFIC BEQUESTS — EXPENSE OF MAINTENANCE BEFORE DISTRIBUTION. — The testator bequeathed certain specific legacies. Expense was incurred in their care and maintenance pending the settlement of the estate. *Held*, that the specific legatee, and not the residuary estate, must pay the expenses of the up keep. *In re Pearce*, [1909] 1 Ch. D. 819.

A specific legacy is considered as separated from the general estate and appropriated from the date of the testator's death. See *Isenhart* v. *Brown*, 2 Edw. Ch. (N. Y.) 341, 347. Upon the assent of the executor, the rights of the specific legatee date back to that time. See *Saunders' Case*, 5 Coke, 12 b. He is accordingly entitled to all accretions or profits added in the interim; for example, the dividends on stock, or the young of animals. See *Isenhart* v. *Brown*, *supra*. On the other hand, any deficiency in the specific legacy must be borne by him, and will not be made up from the residuary estate. *Sleech* v. *Thonington*, 2 Ves. 563. Owing to an utter dearth of direct authority on the issue before the court in the principal case, the matter of expense was held to be the converse of profits arising *ad interim*, and the question was decided entirely on principle. The result seems eminently sound, for since the specific legatee gets all benefits accruing within this period, he should bear the burdens as well.

BOOK REVIEWS.

THE LAW GOVERNING SALES OF GOODS AT COMMON LAW AND UNDER THE UNIFORM SALES ACT. By Samuel Williston. New York: Baker, Voorhis and Company. 1909. pp. cix, 1314.

This is a thorough and admirable piece of work. To its production the author brought an unusual equipment. He had taught the subject of Sales of Goods for many years in Harvard Law School; he had published a scholarly collection of cases on this topic, and he had drafted and redrafted, explained and championed the statute now known as the Uniform Sales Act. No member of the American Bar possesses qualifications for authorship in this branch of the law superior to those of Professor Williston. It is safe to predict that no better treatise on Sales of Goods, than the one before us, will be offered to the public soon.

As indicated by the title, this book is not a mere commentary on the Uniform Sales Act. Indeed, such commentary forms but a small part of the work. The larger and more valuable part is devoted to a statement of the common law rules governing the subject. It is here that the author displays his powers of exposition at their best, and justifies the high regard in which he is held, as a teacher, by the growing multitude of lawyers who have had the good fortune to be his pupils. Possibly, busy and experienced practitioners may chafe at times, under the curb put upon their impetuous search for the existing rule of law upon a given point, by the author's careful and painstaking review of conflicting decisions; but it is probably safe to assert that even they will be benefited by his elucidation of the

principles which should control such decisions. Undoubtedly, some students of this branch of law will not agree with him in all his views and conclusions. No one, however, will question the fairness or the ability which characterizes his discussion throughout the volume.

The extent to which the Uniform Sales Act has modified the rules of the common law is carefully pointed out by the author. Some of these modifications are copied from the English Sale of Goods Act. For example, section five of each statute abrogates the doctrine of "potential possession" set forth in *Grantham* v. *Hawley* (Hob. 132). In England, this section was thought by the draftsman to be a mere codification of existing law. (See Chalmers, Sale of Goods Act, 5th ed., p. 19.) But in this country, it was intended to abolish the doctrine referred to, as one which was unsound in principle and pernicious in practice. It is submitted the arguments for such abolition, contained in §§ 133 to 146 of our text, are unanswerable.

But the American statute does not follow the English model throughout. In section four the redraft of the famous seventeenth section of the Statute of Frauds differs in several respects from the same section of the English Act. It rejects the rule laid down in *Lee* v. *Griffin* (1 B. & S. 272), although the draftsman declares that such "rule is absolutely logical and is the only rule that has ever been suggested for which so much can be said"; and adopts in its stead, "the Massachusetts rule, which was first laid down by Chief Justice Shaw, in *Mixer* v. *Howorth* (21 Pick. 205)." The sections relating to "conditions and warranties" differ widely from the corresponding sections of the English statute, and, if adopted, will work a radical change in the law of many of our states. Whether it was good policy to substitute for the provisions of the English Code on this topic rules which have secured recognition in but a small minority of our jurisdictions remains to be seen. The fact that this Act was not passed in any state, during the current year, may indicate that it was not good policy.

Another departure from the English statute is found in those sections which deal with "negotiable documents of title" — sections twenty-seven to forty inclusive. These were not contained in the original draft, but were added upon the request of the Commissioners on Uniform State Laws. While they do not treat documents of title as possessing the full negotiability of a bill or note, they do propose a great change, not only in the common law rule upon this topic, but in that laid down by the American Factors Acts. A very strong argument for the change thus proposed, as well as for the limits set to this change, will be found in the twelfth chapter of the text.

In commenting on the varying phraseology of the Statute of Frauds in our states, the author says (p. 82): "How far the use of the word 'void' in the statute should be held to require a difference in construction is a question upon which authority is lacking." Has he not overlooked such decisions as those in *Marie* v. *Garrison* (13 Abb. N. C. 210, 257–9); *Chamberlain* v. *Dow* (10 Mich. 319); *Grimes* v. *Van Vechten* (20 Mich. 410); *Scott* v. *Bush* (26 Mich. 418), and *Waite* v. *McKelvey* (71 Minn. 167)?

Although a few errors in proof reading have been noted (on pp. 21, 200, 746), the book appears to be unusually free from such defects, and is one which can be commended to the profession without reservations of any kind.

F. M. B.

A Treatise on the Law of Trustees in Bankruptcy, with the National Bankruptcy Act of 1898 as Amended, the General Orders and the Official Forms. By Albert S. Woodman. Boston: Little, Brown and Company. 1909. pp. xci, 1103. 8vo.

This book has the merit of segregating a portion of the law of bankruptcy, and of dealing with that portion from a single point of view in a way that has not pre-